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Eighth report of the Secretary-General pursuant to paragraph 14 of resolution 1284 (1999)

I. Introduction

1. The present report is submitted pursuant to paragraph 14 of Security Council resolution 1284 (1999), in which the Council requested me to report every six months on the return of all Kuwaiti property, including archives, seized by Iraq. It provides a brief account of the relevant developments since my last report, dated 13 December 2001 (S/2001/1196).

II. Background

2. It will be recalled that on 26 and 27 February 2001, the then Under-Secretary for Foreign Affairs of Iraq, Riyadh M. Sami Al-Qaysi, stated that the Kuwaiti national archives had not been found but, if found, they would be returned (see S/2001/582, para. 4). Addressing the open meeting of the Security Council on 26 and 28 June 2001, Mr. Al-Qaysi stated that Iraq had returned all the Kuwaiti properties that it could find and had pledged to return any other material that might be found in the future (see S/PV.4336 (Resumption 1) and S/2001/1196, para. 29).

3. It will also be recalled that, while presenting my sixth report to the members of the Security Council on 20 December 2001, the high-level Coordinator, Ambassador Yuli Vorontsov, noted that the problem of the return of Kuwaiti property had remained unchanged. The members of the Council expressed their deep concern with the continuing refusal of the Government of Iraq to cooperate in returning stolen Kuwaiti properties, specifically the Kuwaiti national archives. The President of the Council, in his statement to the press, called upon Iraq to put an end to the issue without further delay.

4. In the text of the final communiqué adopted during the Twenty-second Summit of the Supreme Council of the Gulf Cooperation Council held in Muscat on 30 and 31 December 2001, it was stated that "the Council again urged Iraq to discharge ... its obligations ... with a view to devising an expeditious and definitive solution to the problem of Kuwaiti and third-country prisoners and hostages and bringing about the return of all of the Kuwaiti property in its possession" (see A/56/797-S/2002/125, annex).

5. In my second report pursuant to paragraph 14 of resolution 1284 (1999) (S/2000/575), it was noted that, in a letter dated 19 March 1991 (S/22361), the President of the Security Council informed the Secretary-General that the members of the Security Council were of the view that the modalities for the return of property from Iraq should be arranged through the Office of the Secretary-General, in consultation with the parties, and that the procedure also had the agreement of Iraq and Kuwait. To that end, the Secretary-General appointed a Coordinator, whose role was to receive, register and submit to Iraq claims presented by Kuwait and to facilitate the return of property which Iraq had declared that it had in its possession and was subsequently ready to return (para. 3). The Coordinator at that time was assisted by a small group of United Nations staff members, including one who acted as his representative in the field and facilitated the handover operations in Iraq and Kuwait (para. 4). The field office of the Coordinator was closed in February 1997 (para. 8). Although Iraq subsequently expressed its readiness to return some small items allegedly belonging to Kuwait, handover

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operations could not be arranged owing to the absence of the representative of the Coordinator in the field (para. 9). However, Ambassador Vorontsov was ready to travel to Baghdad in order to facilitate the return to Kuwait of these items (para. 18).

6. In the meantime, the international community has continued to call on Iraq to fulfil its obligations to return all Kuwaiti property, including archives. For example, the European Parliament, in its report on the situation in Iraq after the Gulf War dated 26 April 2002, called upon Iraq to "honour all obligations she entered into and to accede to all requests made to her at the Arab League Summit in Beirut regarding missing persons, confiscated property and compensations/war reparations" (para. 19). In a report published on 30 May 2002 by *Akhbar al-Khaleej*, a daily newspaper in Bahrain, Secretary-General Abdurrahman al-Atiyyah of the GCC stated that Iraq must honour its obligations with regard to returning stolen Kuwaiti property.

III. Recent activities

7. On 7 March 2002, during talks in New York, I was informed by the Minister for Foreign Affairs of Iraq, Mr. Naji Sabri, that Iraq had returned all Kuwaiti property found by the Iraqi authorities and had committed itself to returning whatever they would find in the future. Mr. Sabri also said that Iraq was prepared to deliver to Kuwait, through the good offices of the United Nations, some Kuwaiti properties found in Iraq that were currently stored in the Ministry of Foreign Affairs.

8. Since 1997, I have received letters from Iraq informing me that certain items allegedly belonging to Kuwait had been found in Iraq and that the Iraqi authorities would be ready to hand them over to Kuwait through the United Nations. In my second, fourth and sixth reports pursuant to paragraph 14 of resolution 1284 (1999) (S/2000/575, S/2001/582 and S/2001/1196), I referred to those letters accordingly. At the same time, Iraq asserted that the United Nations Secretariat had failed to respond to those requests, and had not designated a time or place for the items to be handed over. During the meeting with Mr. Sabri on 7 March, I stated that the Coordinator would be ready to travel to Baghdad at the earliest opportunity to facilitate the return to Kuwait of the items identified in the letters referred to above. I also suggested that a member of the international staff of the United Nations Iraq-Kuwait Observation Mission (UNIKOM) could be assigned, if necessary, to assist in the return of the property. Concluding the exchange of views on the issue, it was agreed that some concrete steps would be taken regarding the release of the Kuwaiti items currently in the possession of Iraq. On 8 March, I briefed the Security Council accordingly.

9. According to *Al Rai Al-Aam*, a daily newspaper in Kuwait, Kuwaiti diplomatic sources reacted to the announcement of the Iraqi intention to return some Kuwaiti properties by stating that it "was a manoeuvre practiced by Baghdad before". They reportedly indicated that UNIKOM should not become a channel for the return of property and maintained that Iraq's intent to substitute "the Coordinator with the peacekeeping force was in contradiction to the resolutions of the Security Council", as the property issue was not within the mandate of UNIKOM.

10. On 11 March 2002, I received the Chairman of the Kuwaiti National Committee for Missing Persons and Prisoners of War Affairs, Sheikh Salem Sabah Al-Salem Al-Sabah, whom I informed that Iraq was ready to hand over certain items of Kuwaiti property through the United Nations. As the items were not related to the national archives, I assured my interlocutor that priority continued to be given to the return of the archives. Later, the Permanent Representative of Kuwait, Mohammad A. Abulhasan, confirmed to the Coordinator that Kuwait was not interested in receiving non-priority items of property while the issue of the return of the national archives remained unresolved.

11. On 28 March 2002, the Council of the League of Arab States, at its Fourteenth Summit, held in Beirut, adopted a declaration which, inter alia, called on Iraq to cooperate in seeking an expeditious and definitive action to the issue of returning Kuwaiti properties, in accordance with relevant international resolutions.

12. During his recent visits to Cairo, Geneva and Kuwait City from 7 to 14 March 2002 (see S/2002/419), the Coordinator deplored the lack of progress on the Kuwaiti property issue, in particular regarding the national archives and military equipment. The Minister for Foreign Affairs of Egypt, Ahmed Maher El Sayed, pointed out that Iraq had returned or had offered to return some items belonging to Kuwait. The Secretary-General of the League of Arab States, Amre Moussa, and Mr. Vorontsov continued their exchange of views on the modalities for resolving the

stalemate on the issue of the Kuwaiti property. The First Deputy Prime Minister and Minister for Foreign Affairs of Kuwait, Sheikh Sabah Al-Ahmad Al-Jaber Al-Sabah, commenting on the Iraqi willingness to return some property, stated that Kuwait was not interested in treasures, but wanted the return of its national archives. Mr. Vorontsov assured his interlocutors in Kuwait that the Secretary-General was making every effort to urge Iraq to return priority items. The Coordinator stressed that Iraq should start cooperating on the return of Kuwait's national archives, since those documents, along with museum items and military hardware, had been missing for more than 10 years and Baghdad was obligated to return them under the relevant Security Council resolutions.

13. On 8 March 2002, the Coordinator met with Rolf Knutsson, Executive Secretary of the United Nations Compensation Commission, who informed him that any information relevant for inclusion in future reports on the return of all Kuwaiti property would be transmitted to the Coordinator. Mr. Knutsson and the Coordinator agreed to remain in close contact in that regard.

14. On 15 April, I received a letter from the First Deputy Prime Minister and Minister for Foreign Affairs of Kuwait (S/2002/427, annex) in which he noted that the creation of a climate of trust and confidence between Kuwait and Iraq must be translated into specific and tangible steps, including provisions for the return of all Kuwaiti property, and most especially the State archives. This would demonstrate that the Iraqi Government respects the history of the State of Kuwait, as it declared at the Beirut Summit it would undertake to do. The Iraqi Government can return such property through the Coordinator and the mechanism for which provision is made in the relevant Security Council resolutions.

15. On 18 April, the Coordinator met with the Permanent Representative of Kuwait, Mohammed Abulhasan, who stressed the need to expedite the return of the national archives, which represented "the memory of the State". According to Mr. Abulhasan, the return of the archives would be consistent with the pledge made by Iraq at the Arab Summit in Beirut to respect the sovereignty of Kuwait.

16. On 23 April, in Baghdad, Minister for Foreign Affairs Sabri informed the Force Commander of UNIKOM, Major General Miguel Moreno, that Iraq had decided to return to Kuwait some properties and documents that had been in Iraq's possession since 1991, and requested the assistance of UNIKOM in accomplishing that task. The Force Commander pointed out that while UNIKOM would always be available to facilitate any activity that would serve relations between Iraq and Kuwait, such activity was outside the UNIKOM mandate.

17. I conducted another round of discussions with the Minister for Foreign Affairs of Iraq from 1 to 3 May in New York. I brought to his attention the fact that the Security Council would continue to pursue the issue of the Kuwaiti properties, and stressed that the return of the items belonging to Kuwait, especially the national archives, would be a step in the right direction. I welcomed the recent offer by Iraq to return some items of Kuwaiti property through UNIKOM, but Kuwait pointed out that the return of property was not part of the UNIKOM mandate and properties should be returned in accordance with paragraph 14 of resolution 1284 (1999). I reminded the Minister that the return of the archives, "the institutional memory of the nation", remained a priority.

18. On 3 May, I briefed the Security Council on the discussions with the Iraqi delegation. On that occasion, I told members of the Security Council that the Secretary-General of the League of Arab States had informed me of an understanding he had reached with the Iraqi authorities in accordance with which Iraq had pledged to return nearly 90 per cent of the Kuwaiti national archives. Mr. Moussa had already notified the Minister for Foreign Affairs of Kuwait accordingly. I informed the Council the Secretary-General of the League had expressed a wish for United Nations assistance with the transfer of the archives to Kuwait and that he would forward an appropriate letter requesting such assistance.

19. The members of the Security Council welcomed the news that Iraq had expressed its willingness to return the Kuwaiti national archives. Some members regretted that Iraq had chosen to return the archives outside the channel established by the relevant Security Council resolutions. It was also noted that the mandate of the Coordinator was to promote and facilitate cooperation among the parties concerned and, as such, the transfer procedure did not require his taking actual custody. Others were of the opinion that the United Nations, together with the League of Arab States,

should quickly prepare for the transfer of the archives. It was also pointed out that the return of the archives in its entirety would become a prelude to the resolution of all outstanding humanitarian problems between Iraq and Kuwait and should be seen as a substantial gesture by Iraq.

20. On 3 May, the First Deputy Prime Minister and Minister for Foreign Affairs of Kuwait conveyed to the Secretary-General of the League of Arab States his appreciation for the efforts aimed at the return of the national archives. He referred to the mechanism established under the relevant Security Council resolutions relating to the return of Kuwaiti property and reminded that the Government of Iraq had already returned some property using that mechanism. Therefore, the return of the Kuwaiti property should take place in accordance with "the resolutions of international legitimacy". The Minister for Foreign Affairs noted that the United Nations remained the sole entity that could determine "what has been handed over and what has yet to be handed over". He further stressed that "the hand-over of the documents should be conducted through the mechanism of the United Nations and in accordance with the relevant resolutions".

21. In an interview with the Kuwait News Agency on 4 May, Sheikh Sabah reiterated that, "the United Nations should be in charge of overseeing the possible hand-over by Iraq of the Kuwaiti national archives". He also said that Kuwait could accept a role by the League of Arab States if the United Nations were to request the League to set up a process for their return. It would be possible for Kuwait to agree with the League on the procedures "for the full return of Kuwaiti belongings, including official documents and the national archives, which were among the responsibilities of the United Nations Secretary-General". The Minister also noted that the transfer of archives to Kuwait would be a positive development and would help to improve relations in the region.

22. I received a letter from the Secretary-General of the League of Arab States dated 4 May in which he noted that the Minister for Foreign Affairs of Iraq had officially informed the League of the implementation of the Arab Summit resolution. The Iraqi Ministry of Foreign Affairs, in coordination with other Iraqi authorities, had collected various documents belonging to the Kuwaiti national archives. Iraq had asked for Mr. Moussa's help in returning those documents to Kuwait. In addition, the Government of Iraq had pledged to continue to search for all remaining documents pertaining to the State of Kuwait in order to close that file.

23. Mr. Moussa also informed me that he had contacted the First Deputy Prime Minister and Minister for Foreign Affairs of Kuwait, who expressed the hope that the return of the archives would be implemented within the framework of the relevant Security Council resolutions, as well as the resolutions of the League of Arab States. Sheikh Sabah welcomed the commitment of the League to do what is necessary to return the documents to Kuwait in cooperation with the United Nations. I conveyed to Mr. Moussa the readiness of the United Nations to assist with the transfer of the national archives, in particular in accordance with the mechanism for handing over Kuwaiti property.

24. On 5 May, the Permanent Representative of Kuwait to the United Nations reiterated to *Al-Watan*, a daily newspaper in Kuwait, that the return of the Kuwaiti documents was within the competence of the Security Council. According to *Al-Watan*, the Spokesman for the Secretary-General of the League of Arab States, Hisham Youssef, reacted to Mr. Abulhasan's statements by commenting that Kuwait should consider its interests, which were to receive the archives through the League of Arab States or through any other channels.

25. On 6 May, I met with Mr. Abulhasan, who briefed me on the letter the Minister for Foreign Affairs of Kuwait had sent to Mr. Moussa (see para. 20 above). I was also informed that the Minister had issued a public statement declaring that "Kuwait believes that the Secretary-General should play a major role in working out a solution".

26. On 8 May, the Minister of State for Foreign Affairs of Kuwait, Mohammad Al-Sabah, stated that he regarded Iraq's pledge to return the Kuwaiti national archives through the League of Arab States and not through the mechanism established by paragraph 14 of resolution 1284 (1999) as an attempt to deny what was agreed upon during the Arab Summit in Beirut.

27. On 19 May, Sheikh Salem Sabah Al-Salem Al-Sabah, the Chairman of the Kuwaiti National Committee for missing persons and prisoners of war, stated in Cairo that, in his talks with the Secretary-General of the League of Arab States, he had reiterated Kuwait's position that the United Nations should be

responsible for overseeing the possible handover by Iraq of the Kuwaiti national archives. The Secretary-General of the League, as reported by *Al Watan*, expressed surprise at that statement and the reluctance of Kuwait to receive the archives through the League. Mr. Moussa said that he would continue efforts to implement the Security Council resolutions, and those efforts would be undertaken "in the framework of international legitimacy".

28. On 21 May, I spoke to Mr. Moussa in order to clarify the situation concerning the return of the archives and later addressed a letter to him on the issue.

29. On 31 May, I sent a letter to the First Deputy Prime Minister and Minister for Foreign Affairs of Kuwait, informing him about the communication from the Secretary-General of the League of Arab States regarding Iraq's reported willingness to return various documents belonging to the Kuwaiti national archives. In the letter, I drew Sheikh Sabah's attention to my second report pursuant to paragraph 14 of resolution 1284 (1999) (S/2000/575), in particular paragraphs 3, 4, 7, 8, 9, 17 (c) and 19, as well as documents S/22361 of 19 March 1991, S/1994/243 of 2 March 1994, S/1994/243/Add.1 of 11 March 1994 and S/1996/1042 of 16 December 1996, which contain detailed information regarding the precise mechanism for the return of property through the Office of the Secretary-General, in consultation with the parties, and through the procedure that had the agreement of Iraq and Kuwait. I requested that the Minister for Foreign Affairs provide an early indication whether my proposal for the re-establishment of the above-mentioned mechanism would meet with the approval of the Government of Kuwait. I also sent a letter on 31 May to the Minister for Foreign Affairs of Iraq, requesting a formal confirmation of his Government's intention to return the property in question to Kuwait, as well as of Iraq's concurrence with my proposal concerning the re-establishment of the mechanism facilitating the return of the property.

30. In response to my letter of 31 May, the First Deputy Prime Minister and Minister for Foreign Affairs of Kuwait, in a letter dated 3 June 2002, informed me that the Government of Kuwait agreed with my proposal for the re-establishment of the mechanism referred to above, and that Kuwait welcomed the efforts made by the League of Arab States. The letter also outlined the Kuwaiti position that the issue must be resolved in the context of the implementation of the relevant Security Council resolutions; that the United Nations retained primary responsibility for monitoring that issue; and that the Government of Iraq must return all Kuwaiti property in its possession to bring full closure.

31. In a letter dated 8 June 2002, the Minister for Foreign Affairs of Iraq replied to my letter of 31 May by stating that Iraq was prepared to return documents and property belonging to Kuwait through a mechanism that would include the League of Arab States and the United Nations, through UNIKOM, and in the presence of representatives of Kuwait and Iraq, a representative of the United Nations Secretariat and a representative of the League of Arab States.

IV. Observations

32. I have consistently called on the international community to continue, through all available channels, efforts aimed at the expeditious resolution of the return of all Kuwaiti property, including archives, seized by Iraq. In this regard, the high-level Coordinator, Yuli Vorontsov, has made every effort to promote this humanitarian process with a view to bringing to closure the file of stolen Kuwaiti property. It is therefore an encouraging development that Iraq has expressed its intention, as conveyed to the Secretary-General of the League of Arab States and reconfirmed in the letter to me dated 8 June 2002 from Mr. Sabri, to return documents belonging to the Kuwaiti national archives. In this context, I am grateful to the League of Arab States and its Secretary-General, Amre Moussa, for their active role in facilitating the return of Kuwaiti property.

33. It will be recalled that the members of the Security Council have always stressed that the return of the Kuwaiti national archives would be an important signal of the willingness of Iraq to cooperate on outstanding humanitarian issues. They also supported further exploration of pragmatic approaches for identifying modalities for the return of Kuwaiti property. At present, there is no active mechanism in the field similar to the one established in 1991. To that end, I have written to both sides as indicated in paragraph 29 above. I am gratified that both Governments have concurred with my proposal to re-establish the mechanism previously used for the return of property. I am encouraged and hopeful that the

responses of Kuwait and Iraq to my letter of 31 May represent an auspicious beginning to a process that could lead to the full resolution of this issue. The forthcoming round of talks with the Minister for Foreign Affairs of Iraq will provide an opportunity to address this issue in more detail.

34. After many years of dashed hopes, it appears that some substantive progress regarding the return of Kuwaiti property can be made. I should like to reiterate that the high-level Coordinator stands ready to discuss the modalities for the return of Kuwaiti property with the parties, as well as with the Secretary-General of the League of Arab States. I am also happy to note that both sides would welcome the participation of the League of Arab States in the implementation of the return mechanism.

35. At the same time, I strongly urge the Government of Iraq to make further efforts regarding the whereabouts of all remaining Kuwaiti property in its possession, in particular the remaining elements of the national archives of Kuwait. As the leadership of Iraq is fully aware, this humanitarian issue can only be brought to closure through a complete return of all Kuwaiti property. The United Nations is fully prepared to do its utmost to be of assistance in this process in accordance with the relevant Security Council resolution and the wishes of the parties, and in collaboration with the League of Arab States.